

UNITED STATES DISTRICT COURT**DISTRICT OF NEVADA**

3 Pelisi Foketi Fonua,

Case No.: 2:24-cv-00385-APG-DJA

4 Petitioner

**Order Denying Fonua's Motion to Enforce
and Motion for Appointment
of Counsel**

5 v.

6 United States of America, et al.,

[ECF Nos. 11, 12]

7 Respondents

8 Petitioner Pelisi Foketi Fonua filed a petition for writ of habeas corpus under 28 U.S.C. §
9 2241, challenging his prolonged detention pending enforcement of his final removal order. ECF
10 No. 2. I granted the petition, in part, and ordered that Fonua must receive an individualized bond
11 hearing before an immigration judge (IJ). ECF No. 9. Before me is Fonua's motion to enforce
12 (ECF No. 11) and motion for appointment of counsel (ECF No. 12).

Discussion**I. Motion to Enforce**

15 In my September 27, 2024, order I denied Fonua's request for release, but ordered that
16 Fonua must receive an individualized bond hearing no later than October 31, 2024. ECF No. 9 at
17 10. In his motion, Fonua requests immediate release because the respondents failed to fulfill the
18 order directing an individualized bond hearing. ECF No. 11 at 1. The respondents, however,
19 provide that "while regrettably late due to an unintentional logistical oversight," Fonua had a
20 bond hearing on November 20, 2024. ECF No. 13 at 1. The IJ denied release on bond finding
21 that Fonua remains a flight risk and a danger to the community. ECF No. 13-1.

22 Because Fonua has had an individualized bond hearing, I deny his motion to enforce as
23 moot. I further deny Fonua's request for release. If he is dissatisfied with the IJ's bond

1 determination, he may file an administrative appeal so that “the necessity of detention can be
2 reviewed by ... the [Board of Immigration Appeals] (BIA).” *Prieto-Romero v. Clark*, 534 F.3d
3 1053, 1059 (9th Cir. 2008). A noncitizen must seek review from the BIA before filing a habeas
4 petition in court. *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 1022).

5 **II. Motion for Appointment of Counsel**

6 Fonua again seeks the appointment of counsel to assist him in this habeas action. There
7 is no constitutional right to appointed counsel in a federal habeas corpus proceeding. *Luna v.*
8 *Kernan*, 784 F.3d 640, 642 (9th Cir. 2015) (citing *Lawrence v. Florida*, 549 U.S. 327, 336–37
9 (2007)). The decision to appoint counsel is generally discretionary. *Id.* § 3006A(a)(2)
10 (authorizing appointment of counsel “when the interests of justice so require”). I find that
11 appointment of counsel is not justified in this instance and the motion is denied.

12 **Conclusion**

13 I THEREFORE ORDER:

- 14 1. Petitioner Pelisi Foketi Fonua’s motion to enforce (**ECF No. 11**) is denied as moot.
15 2. Fonua’s motion for appointment of counsel (**ECF No. 12**) is denied.

16 DATED this 7th day of April, 2025.

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18 ANDREW P. GORDON
19 CHIEF UNITED STATES DISTRICT JUDGE
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